

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE) **WEDNESDAY THE 28th**
)
MR. JUSTICE CAVANAGH) **DAY OF SEPTEMBER, 2022**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, C. C-36, AS AMENDED**

**AND IN THE MATTER OF ARMSTRONG FLOORING, INC., AFI LICENSING
LLC, ARMSTRONG FLOORING LATIN AMERICA, INC. AND ARMSTRONG
FLOORING CANADA LTD. (THE "DEBTORS")**

**APPLICATION OF ARMSTRONG FLOORING CANADA LTD. UNDER SECTION 46
OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C-36, AS
AMENDED**

O R D E R
(Administration Order)

THIS MOTION, made by Armstrong Flooring Canada Ltd. ("**Armstrong Flooring Canada**"), in its capacity as foreign representative (the "**Foreign Representative**") of itself as well as Armstrong Flooring, Inc., AFI Licensing LLC and Armstrong Flooring Latin America, Inc. (collectively, the "**U.S. Debtors**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended (the "**CCAA**") for an Order substantially in the form enclosed in the Motion Record, was heard this day by Zoom Video Conference due to the COVID-19 pandemic.

ON READING the Motion Record and the affidavit of Dalton Edgecomb sworn September 26, 2022, (the "**Edgecomb Affidavit**"), the affidavit of Jonathan Krieger sworn September 22, 2022 (the "**Krieger Affidavit**"), the affidavit of Andrew Winton sworn September

22, 2022 (the “**Winton Affidavit**”) and the first report of Grant Thornton Limited in its capacity as court-appointed information officer (“**Information Officer**”) dated September 23, 2022 and the appendices thereto (the “**First Report**”), each filed, and on hearing the submissions of counsel for the Foreign Representative, counsel for the Information Officer, no one else appearing from the service list although duly served as evidenced by the affidavits of Mariela Adriana Gasparini sworn September 23, 2022, September 26, 2022 and September 27, 2022 and the affidavit of Sumit Bhatia sworn September 26, 2022, filed;

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that any capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Edgecomb Affidavit.

3. **THIS COURT ORDERS** that, subject to the filing of the Information Officer’s Certificate (as defined below) with this Court and the delivery thereof to the service list in the within proceedings, the following Order of the United States Bankruptcy Court for the District of Delaware (the “**U.S. Court**”) made in the insolvency proceedings of the Debtors under Chapter 11 of Title 11 of the United States Bankruptcy Code is hereby recognized and given full force and effect in all provinces and territories of Canada, pursuant to Section 49 of the CCAA:

- a. an order dated July 13, 2022, *inter alia*, (i) approving the sale of certain of the Debtor’s assets free and clear of all liens, claims, encumbrances and other interests, (ii) approving the assumption and assignment of certain executory contracts and unexpired leases related thereto, and (iii) granting related relief (the “**U.S. Sale Order**”).

4. **THIS COURT ORDERS** that the settlement agreement dated September 23, 2022, (the “**Settlement Agreement**”) between Armstrong Flooring Canada and the U.S. Debtors be and is hereby approved, a copy of which is attached as Schedule “B” to the First Report.

5. **THIS COURT ORDERS AND DECLARES** that upon the satisfaction of the terms and conditions of the Settlement Agreement, the Information Officer shall file an Information Officer’s certificate (the “**Information Officer’s Certificate**”) substantially in the form attached as Schedule “A” hereto with this Court.

6. **THIS COURT ORDERS** that the Information Officer is hereby directed to post a copy of the Information Officer’s Certificate, once filed with this Court, on the case website maintained by the Information Officer in respect of the within proceedings and deliver a copy to the service list by email.

7. **THIS COURT ORDERS AND DECLARES** that Element Fleet Management Inc. (“**Element**”) is not a secured creditor of Armstrong Flooring Canada.

8. **THIS COURT ORDERS AND DIRECTS** the registrar of personal property security in Ontario to fully discharge and delete the registration made by Element pursuant to the provisions of the *Personal Property Security Act* (Ontario) (the “**PPSA**”) on March 27, 2017 as File Number 725951925, bearing Registration Number 20170327 1402 1462 3216, from the personal property registry.

9. **THIS COURT ORDERS** that paragraph 19 of the Supplemental Order dated June 8, 2022, made by Justice Cavanagh be and is hereby amended to read as follows:

THIS COURT ORDERS that the Information Officer, counsel to the Information officer and Borden Ladner Gervais LLP (“**BLG**”) shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property in Canada, which charge shall not exceed an aggregate amount of \$600,000, as security for their professional fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order. The Administration Charge shall have the priority set out in paragraphs 21 and 23 hereof.

10. **THIS COURT ORDERS** that any of Armstrong Flooring Canada, or the Information Officer, is authorized to pay the fees and disbursements, plus applicable taxes, of Borden Ladner Gervais LLP, the lawyers for the Debtors, from the assets of Armstrong Flooring Canada.

11. **THIS COURT ORDERS** that the Information Officer is authorized to file an assignment in bankruptcy on behalf of Armstrong Flooring Canada under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended.

12. **THIS COURT ORDERS** that Grant Thornton Limited is authorized to act as trustee in bankruptcy on behalf of Armstrong Flooring Canada.

13. **THIS COURT ORDERS AND DECLARES**, without limiting the U.S. Sale Order, that upon the delivery of the Information Officer’s certificate to Gordon Brothers Commercial & Industrial LLC (“**GBG**”) substantially in the form attached as Schedule A hereto (the “**Information Officer’s Certificate**”), all of GBG’s right, title and interest in and to the Canadian AR described in the APA Amendment, dated September 23, 2022, shall vest absolutely in GBG, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or

otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing (i) any encumbrances or charges created by the Supplemental Order (Foreign Main Proceeding) of the Honourable Justice Cavanagh dated June 8, 2022 or any other orders of this Court; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

14. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Canadian AR shall stand in the place and stead of the Canadian AR, and that from and after the delivery of the Information Officer’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Canadian AR with the same priority as they had with respect to the Canadian AR immediately prior to the sale, as if the Canadian AR had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

15. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of Armstrong Flooring Canada and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of Armstrong Flooring Canada; the vesting of the Canadian AR in GBG pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Armstrong Flooring Canada and shall not be void or voidable by creditors of Armstrong Flooring Canada, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

16. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or the United States, to give effect to this Order and assist the Information Officer, and its respective agents, in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Information Officer, as an officer of this Court, and may as necessary or desirable to give effect to this Order, or to assist the Information Officer, and its respective agents, in carrying out the terms of this Order.

17. **THIS COURT ORDERS** that each of the Debtors, the Foreign Representative and the Information Officer be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

18. **THIS COURT ORDERS** that this Order shall be effective as of 12:01 a.m. (prevailing Eastern Time) on the date of this Order.

SCHEDULE “A”: FORM OF INFORMATION OFFICER’S CERTIFICATE

Court File No. CV-22-00682153-00CL

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INFORMATION OFFICER’S CERTIFICATE

- A. Pursuant to an Initial Recognition Order dated June 8, 2022 and a Supplemental Order dated June 8, 2022 of Mr. Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List), Grant Thornton Limited was appointed as information officer (“**Information Officer**”) of the Debtors.
- B. Pursuant to an Order of the Court dated September 28, 2022 (the “**Administration Order**”) the Court approved, *inter alia*, a settlement agreement dated September 23, 2022, (the “**Settlement Agreement**”) between Armstrong Flooring Canada Ltd., Armstrong Flooring, Inc., AFI Licensing LLC and Armstrong Flooring Latin America, Inc.
- C. Pursuant to the Administration Order, the Court also, *inter alia*, (i) subject to the filing of this certificate and delivery thereof to the service list in these proceedings, recognized and gave full force and effect in all provinces and territories of Canada pursuant to Section 49 of the CCAA an order dated July 13, 2022 of the United States Bankruptcy Court for the District of Delaware which, *inter alia*, approved the sale of certain of the Debtor’s assets to Gordon Brothers Commercial & Industrial LLC (“**GBG**”) free and clear of all liens, claims, encumbrances and other interests and (ii) provided for the vesting in GBG of the Debtor’s right, title and interest in and to the Canadian AR, which vesting is to be effective with respect to the Canadian AR upon the delivery by the Information Officer to GBG of this certificate.
- D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Administration Order.

THE INFORMATION OFFICER HEREBY CERTIFIES the following:

- 1. The Information Officer is satisfied, that the terms and conditions of the Settlement Agreement have been satisfied.
- 2. This Certificate was delivered by the Information Officer at _____ (time)
on _____ (date).

GRANT THORNTON LTD. in its capacity as
Information Officer of Armstrong Flooring, Inc.,
AFI Licensing LLC, Armstrong Flooring Latin
America, Inc. and Armstrong Flooring Canada
Ltd.

Per: _____
Name:
Title:

Court File No.: CV-22-00682153-00CL

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PROCEEDINGS COMMENCED AT TORONTO

INFORMATION OFFICER'S CERTIFICATE

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Court File No.: CV-22-00682153-00CL

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PROCEEDINGS COMMENCED AT
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ORDER
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